IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE ELEVENTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 18448 of 2004

Between:

S. Narayana Goud, S/o. S. Laxmaiah Goud,
Sangam Kalan Village, Tandur Mandal, R.R. District, (Owner of the Tractor & Tralor bearing No. AP28/U-3405 & 3406).

..... PETITIONER

AND

1 The Deputy Commissioner of Prohibition & Excise, Hyderabad Division at Nampally, Hyderabad.
2 The Inspector , Prohibition & Excise (SHO), Tandur Circle at Tandur, R.R. District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order or direction more particularly one in the nature of Writ of Mandamus declaring the seizure of tractor and trailor of the petitioner bearing No. AP28/U-3405 and 3406 by the 2nd respondent in Crime No. 231/2004-05 dated 22-9-2004 in pursuance of the Excise Policy excise policy para 18 of the Excise Year 2003-04 issued G.O.Ms.No. 998 Revenue (Excise-II) Department dt. 1-10-2003 and para 16 of the present Excise Policy issued G.O.Ms.No. 767 Revenue (Excise-II) Department dt. 29-9-2004.

Counsel for the Petitioner:MR.B.SAI RAM GOUD

Counsel for the Respondents: GP FOR PROHIBITION & EXCISE

The Court at the admission stage made the following:

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ORDER:

This writ petition is filed assailing the validity of the seizure of the tractor and trailer bearing No.AP28/U-3405 and 3406 effected by the second respondent under panchanama dated 22.09.2004.

The petitioner claims to be the owner of the tractor and trailer bearing No.AP28/U-3405. He states that on 22.09.2004, while the said vehicle carrying 200 liters of Toddy was proceeding from the Tope of Gingurthy village, was seized by the 2nd respondent under panchanama dated 22.09.2004. In pursuance thereof, Crime No.231 of 2004-05 has been registered and further proceedings are pending before the first respondent.

The case of the petitioner is that as per the Excise policy for the year 2003-04, the Tappers Co-operative Society and the persons holding Tree for Tapper licence, who have surplus toddy are entitled to sell toddy to other Tapper Cooperative Societies, which are in need of toddy without any permission and they are also entitled to transport the toddy on the basis of the sale bill issued by the Selling Tappers Cooperative Society and there is no need for any other transport permit. Moreover, even as per Panchnama, the samples of toddy drawn from Tractor-Trailer in question, on spot test were found to be not adulterated. Thus, according to the petitioner, there is absolutely no valid reason for effecting the seizure and at any rate the vehicle cannot be detained any longer.

The petitioner states that since the impugned seizure itself is arbitrary and illegal he made an application on 30.09.2004, requesting the first respondent to release the tractor and trailer unconditionally, but the first respondent failed to pass any orders. Hence, this writ petition.

I have heard the learned counsel for the petitioner and the learned Government Pleader for Prohibition and Excise appearing for the respondents.

Having regard to the facts and circumstances of the case and particularly keeping in view the fact that the application made by the petitioner is kept pending before the first respondent, I deem it appropriate to dispose of the writ petition with a direction to the first respondent to consider the application of the petitioner for release of the

Tractor and Trailer bearing No.AP28/U-3405 & 3406 and to pass appropriate orders in accordance with law keeping in view the Excise Policy issued under G.O.Ms.No.998 Revenue (Excise-II) Department dated 01.10.2003, for the year 2003-04 as expeditiously as possible, preferably within a period of one week from the date of receipt of this order.

Accordingly, the writ petition is disposed of. No costs.

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11.10.2004

Note: Issue CC by tomorrow

(b/o)

Jsu/Vgb

To

1 The Deputy Commissioner of Prohibition & Excise, Hyderabad Division at Nampally, Hyderabad.
2 The Inspector , Prohibition & Excise (SHO), Tandur Circle at Tandur, R.R. District.

3 2 CCs to the Government Pleader for Prohibition and Excise, High Court Buildings, Hyderabad. (O.U.T.).

4 2 CD copies.